

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

FAEGRE DRINKER BIDDLE & REATH LLP

A Delaware Limited Liability Partnership

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Counsel to Prologis USLF NV II, LLC and

PRW Urban Renewal I, LLC

In re:

BED BATH & BEYOND INC., *et al.*,

Debtors.¹

Chapter 7

Case No. 23-13359 (VFP)

(Jointly Administered)

**PROLOGIS USLF NV II, LLC; AND PRW URBAN RENEWAL 1, LLC'S OBJECTION
TO NOTICE TO CONTRACT PARTIES TO POTENTIALLY ASSUMED EXECUTORY
CONTRACTS AND UNEXPIRED LEASES**

Prologis USLF NV II, LLC ("Prologis USLF") and PRW Urban Renewal 1, LLC ("PRW") (collectively, "Prologis"), by and through their undersigned counsel, hereby file their objection to the Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases [Doc. No. 714] (hereinafter referred to as "Lease Notice").

BACKGROUND

1. On April 23, 2023, the above-captioned debtors (collectively, the "Debtors") filed voluntary petitions for reorganization pursuant to Chapter 11 of Title 11 of the United States Bankruptcy Code (the "Bankruptcy Code").

¹ The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>. The location of Debtor Bed Bath & Beyond Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 650 Liberty Avenue, Union, New Jersey 07083.

2. Since April 23, 2023, the Debtors have continued to manage their properties and operate their businesses as debtors-in-possession pursuant to §§1107 and 1108 of the Bankruptcy Code.

3. On June 8, 2023, the Bankruptcy Court entered the *Order Pursuant to Sections 365 and 363 Approving the Lease Termination Agreement with PRW Urban Renewal 1, LLC and Prologis USLF NV II, LLC and Authorizing the Accompany Sale and Transfer of Property Located at the Premises* [Docket No. 659] (the “Lease Termination Order”).

4. Pursuant to the Lease Termination Order, the Bankruptcy Court authorized the rejection and termination of: (i) that certain lease of non-residential real property dated as of September 21, 2006, as subsequently amended or modified (the “Woodbridge Lease”), between Debtor, Bed Bath & Beyond Inc., and PRW governing the premises located at 1001 West Middlesex Ave., Woodbridge, NJ 07064 (the “Woodbridge Premises”); and (ii) that certain lease of non-residential real property dated as of March 31, 2016, as subsequently amended or modified (the “Las Vegas Lease” and together with the Woodbridge Lease, the “Leases”), between Debtor, Bed Bath & Beyond Inc., and Prologis USLF governing the premises located at 5835 East Ann Road, North Las Vegas, Nevada 89115, known as “Prologis Speedway Logistics Center #1” (the “Las Vegas Premises” and collectively with the Woodbridge Premises, the “Premises”).

5. Pursuant to the Lease Termination Order, the Bankruptcy Court also approved the certain Termination Agreement, dated May 26, 2023 (the “Lease Termination Agreement”), by and among Prologis and Bed Bath & Beyond Inc., as Tenant in each of the Leases, by which the Debtors agree that, upon the Termination Date the Leases shall be deemed rejected and terminated.

6. Pursuant to the Lease Termination Agreement, the Woodbridge Lease is terminated effective May 31, 2023, and the Las Vegas Lease is terminated effective June 30, 2023.

7. On June 13, 2023, the Debtors filed the Lease Notice. The Lease Notice identifies the Leases as unexpired leases which the Debtors may seek to assume and assign to a successful bidder.

OBJECTION

8. Pursuant to section 365(a) of the Bankruptcy Code, “the trustee, subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a).

9. Here, neither of the Leases is capable of being assumed and assigned because the Bankruptcy Court has already approved the rejection and termination of the Leases. Under the Lease Termination Order, the Woodbridge Lease was rejected and terminated as of May 31, 2023, and the Las Vegas Lease will be rejected and terminated as of June 30, 2023.

10. Prologis reserves the right to supplement or amend this Objection based upon information acquired by Prologis subsequent to its filing and to introduce evidence at any hearing related to the assumption and/or assignment of the Leases, and/or this Objection. Prologis also reserves the right to exercise all available remedies under the Leases to obtain possession of the Premises (subject to any applicable procedural limitations imposed by the Bankruptcy Code and Rules), and to assert claims against the Debtor at the appropriate time.

CONCLUSION

11. **WHEREFORE**, for the reasons set forth above, Prologis respectfully requests that the Court enter an Order (i) denying any request to assume and assign the Leases; and (iii) granting Prologis such other and further relief as is just and proper.

Dated: June 26, 2023

FAEGRE DRINKER BIDDLE & REATH LLP

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CERTIFICATE OF SERVICE

1. I, Brian P. Morgan, of the law firm of Faegre Drinker Biddle & Reath LLP, attorneys for Prologis, hereby certify the following:

2. On June 26, 2023, I filed the original copy of this Objection via the CM/ECF filing system, which triggered Notice of Electronic Filing to the electronic filers in this action.

I certify under penalty of perjury, that the above documents were sent using the mode of service indicated.

Date: June 26, 2023

/s/ Brian P. Morgan

Brian P. Morgan